

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

GREGORY J. KUDASZ,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
MANATRON INC.,	)	Civil Action No. 3:10CV106
	)	
GREGORY A. EFFREIN,	)	
	)	
DOES 1-30, INCLUSIVE,	)	
	)	
Defendants.	)	
	)	

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**DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

COME NOW Defendants Manatron, Inc. and Gregory A. Effrein, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, and file this their Motion to Dismiss Plaintiff's Complaint.

As set forth more fully in Defendants' Memorandum in Support of Their Motion to Dismiss Plaintiff's Complaint filed contemporaneously herewith, Defendants move this Court to dismiss Plaintiff's Complaint in its entirety. Specifically, Defendants seek dismissal of Plaintiff's claims for declaratory judgment because all such claims were rendered moot by the filing of Defendants' Answer and Counterclaims. Defendants seek dismissal of Plaintiff's claims for libel *per se* and libel *per quod* because all the alleged publications upon which Plaintiff relies to establish his claims took place outside the one year statute of limitations and are barred as a matter of law. To the extent Plaintiff's libel claims are not found to be barred, all the alleged statements in support of those claims fail to impeach Plaintiff in his trade, business or profession or subject Plaintiff to ridicule, contempt or disgrace. Further, the circumstances alleged by Plaintiff's Complaint fail to indicate any intent to defame Plaintiff or support that the alleged

statement "suppressed" Plaintiff's wages. Finally, to the extent the claims are not barred, regardless of the existence of libel *per se* or *per quod*, any alleged publications were made under a qualified privilege. Defendants seek dismissal of Plaintiff's claim for slander *per se* because the alleged statements fail to impeach Plaintiff in his trade, business, or profession and because, regardless of the existence of slander *per se*, any alleged publications were made under a qualified privilege. Defendants seek dismissal of Plaintiff's claims for "defamation by conduct or in alternate slander *per se*" because there is no recognized cause of action for "defamation by conduct" in North Carolina and because Plaintiff's Complaint fails to allege any basis supporting slander *per se* based upon Defendants' "actions." Finally, Plaintiff's claims for intentional infliction of emotional distress, and to the extent it is indirectly alleged, negligent infliction of emotional distress, fail as a matter of law because Plaintiff has failed to allege the existence of any "extreme and outrageous" conduct or circumstances which would support that Defendants engaged in negligent conduct.

For these reasons, Defendants request that the Court grant this Motion and dismiss each of the above-identified claims as to each of the Defendants with prejudice, and any other and further relief that the Court deems just and proper.

Dated this the 9th day of June, 2010.

Respectfully submitted,

s/H. Bernard Tisdale III

NC Bar No. 23980

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**CERTIFICATE OF SERVICE**

I, H. Bernard Tisdale, hereby certify that I have this day electronically filed the foregoing **DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT** with the Clerk of Court using the CM/ECF system, which will send notification of the filing to the following person:

Gregory J. Kudasz  
*Pro Se Plaintiff*  
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Charlotte, NC 28216-8706  
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Dated this the 9th day of June, 2010.

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